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OFFICE OF PETITIONS

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In re Application of :
Mark Dillon : DECISION ON PETITION
Application No. 09/754,010 :
Filed: January 3, 2001 :
Atty Docket No. E-1950 :

This is in response to the REQUEST TO REVIVE filed July 26, 2012, which is properly treated as a no-fee petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is GRANTED.

The above-identified application was held abandoned for failure to file a reply to the Office action mailed July 21, 2011. The final Office action set a three (3) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective October 22, 2011. A courtesy Notice of Abandonment was mailed on May 23, 2012.

In response, applicant timely filed the instant petition. Applicant submits that the application is not abandoned as applicant timely responded to the Office action dated July 21, 2011 by filing on January 23, 2012 (a Monday) a Notice of Appeal, a 12 page response, a petition for extension of time and the appropriate fees, under a certificate of first-class

mailing. Applicant notes that the response is of record in the application with a date of receipt of January 27, 2012.

Applicant is correct. Their response, including a sufficient extension of time and extension fee, is present in the application with a date of receipt of January 27, 2012 (and a certificate of mailing dated January 23, 2012). Further, the finance records for this application show that the three-month extension of time received January 27, 2012 was processed and charged to the Deposit Account. As the response includes a Notice of Appeal, it is clear that the response after final Office action was proper to prevent abandonment of the application.

Moreover, applicant has timely filed on July 26, 2012, a proper request for continuing examination (RCE) (and four month extension of time) in lieu of an appeal brief.

Accordingly, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center Art Unit 1611 has been advised of this decision. The application is, thereby, forwarded to the Technology Center support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed January 27, 2012 and the further response filed July 26, 2012.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
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